



UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ANDRE ROSARIO,

Plaintiff,

v.

W. WOODARD,

Defendant.

Case No. 3:18-CV-0080-RCJ (VPC)

REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE

This Report and Recommendation is made to the Honorable Robert C. Jones, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. Before the court is plaintiff's failure to comply with Local Rule ("LR") IA 3-1 requiring plaintiff to change his address.

Upon initial screening of this case, the court noted that plaintiff was no longer incarcerated according to the Washoe County Sheriff's inmate database (ECF No. 3). On May 16, 2018, the court ordered plaintiff to file a notice of change of address by June 15, 2018. (*Id.*) Plaintiff was cautioned that his failure to do so would result in a dismissal of this action. (*Id.*) That order was returned to the court by the U.S. Postal Service as undeliverable with a handwritten note that states plaintiff is no longer incarcerated at the Washoe County Detention Center (ECF No. 4).

To date, plaintiff has not filed a notice of change of address with the court. In fact, plaintiff has not filed a document with the court since the motion for leave to proceed *in forma pauperis* and civil rights complaint was filed with this court on February 22, 2018 (ECF No. 1).

LR IA 3-1 provides that the failure to "immediately file with the Court written notification of any change of address . . . may result in dismissal of the action . . ." Prior to dismissal for failure to follow local rules, the court must consider "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the

1 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
2 availability of less drastic sanctions.” *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting  
3 *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)). This litigation cannot proceed or be  
4 decided on the merits if the court and defendants cannot contact plaintiff, nor should the court or  
5 defendants be required to continue to try to resolve the case without the plaintiff’s participation.  
6 All five factors clearly favor dismissal of this case.

7 Based on the foregoing and for good cause appearing, the court recommends that this case  
8 dismissed based upon plaintiff’s failure to notify the court of his change of address pursuant to LR  
9 IA 3-1.

10 The parties are advised:

11 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice,  
12 the parties may file specific written objections to this Report and Recommendation within fourteen  
13 days of receipt. These objections should be entitled “Objections to Magistrate Judge’s Report and  
14 Recommendation” and should be accompanied by points and authorities for consideration by the  
15 District Court.

16 2. This Report and Recommendation is not an appealable order and any notice of appeal  
17 pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court’s judgment.

18 **RECOMMENDATION**

19 IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for plaintiff’s  
20 failure to comply with LR IA 3-1.

21 DATED: July 16, 2018.

22   
23 UNITED STATES MAGISTRATE JUDGE  
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